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DAE

PATENT
00833-P0021A SPM/MWK

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants	Barry V.L. Potter, <i>et al.</i>
Serial No. 09/868,348	Filing Date: June 15, 2001
Title of Application:	Cyclic Adenoside Diphosphate Ribose Analogues for Modulating T Cell Activity
Confirmation No. 7539	Art Unit: 1623
Examiner	Patrick T. Lewis

Mail Stop Petition
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

Petition to Withdraw Holding of Abandonment (37 CFR 1.181(a))

Applicants hereby petition that the Notice of Abandonment mailed on December 28, 2004 be withdrawn based on failure to receive official action dated 20 April 2004. In this case, the USPTO sent its Office Action to Applicant's deceased prior attorney, even though a Power of Attorney had been submitted months earlier directing all mail be sent to the undersigned attorneys. The abandonment arose through error of the USPTO and withdrawal of the abandonment under 37 CFR 1.18(a) is appropriate, and no fee should be due. See MPEP 711.03(c). Applicants believe that no fee is due at this time, however, if any additional fee is due please charge Deposit Account No. 19-4516.

Mailing Certificate: I hereby certify that this correspondence is today being deposited with the U.S. Postal Service as *First Class Mail* in an envelope addressed to: Commissioner for Patents and Trademarks; Post Office Box 1450; Alexandria, VA 22313-1450.

February 2, 2005

Patricia A. Sci
Patricia A. Sci

Applicant Hereby Petitions to Withdraw Holding of Abandonment

Pursuant to 37 CFR § 1.181, a petition may be taken by the Director to invoke the supervisory authority of the Director in appropriate circumstances. Any such petition must contain a statement of the facts involved and the point or points to be reviewed and the action requested. Where facts are to be proven, proof in the form of affidavits or declarations (and exhibits, if any) must accompany the petition. Where the appropriate fee is required for a petition to the Director the appropriate section of this part will so indicate. The mere filing of a petition will not stay any period for reply that may be running against the application.

Pursuant to M.P.E.P. 711.03 (c) the showing required to establish non-receipt of an Official communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived office action would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

Statement of Facts

An Office Action issued in the above application on February 12, 2003. Applicant's prior attorney, Mary Krinsky, passed away in late February 2003. The present attorneys filed a complete Response to the Office Action in August 2003.

On January 5, 2004, Applicants submitted a Filing of Revocation and New Power of Attorney revoking prior powers of attorney appointing such powers to Stephen P. McNamara, Registration No. 32,745 and Michael Krenicky, Reg. No. 45,411 of St. Onge Steward Johnston and Reens LLC ("SSJR"), 986 Bedford Street, Stamford, CT 06905-5619. Included with this filing was a return postcard acknowledging receipt of the Revocation and New Power of attorney that was stamped by O.I.P.E. January 8, 2004 (See

Exhibit A of the Declaration of Michael W. Krenicky, Esq. submitted herewith (hereinafter "Krenicky Decl.").

On April 20, 2004, months after Applicants submitted Filing of Revocation and New Power of Attorney, an Office communication requesting that the form of the Response to Office Action be amended to include information on the status of all the pending claims, and requiring a response within one month from the mailing of the notice, was sent to Applicants prior attorney, Mary M. Krinsky, Ph.D. J.D., 79 Trumbull Street, New Haven, CT 06511. Dr. Krinsky was at that time deceased for over a year, and presumably the Official communication was likely returned to sender after being sent to the wrong address. (See 20 April, 2004 Official Action -- Exhibit B of Krenicky Decl.).

The 20 April 2004 Office communication was not received by Applicant's attorneys. (See Krenicky Decl. ¶¶ 6-7). This is confirmed by a review of the docket record where the nonreceived Office communication would have been entered had it been received. Had the Official communication been received the attorney client/matter number (00833-P0021A SPM/MWK) would have been listed on the docket report, and a reply date would have been docketed for 20 May 2004. Nowhere does the docket report for the month between April 20, 2004 and May 20, 2004 indicate that an Official Communication for this client/matter was received and reply period docketed as required by SSJR policy. (See Exhibit C of Krenicky Decl.).

On 28 December 2004, a Notice of Abandonment was sent to the correct address. (See Exhibit D of Krenicky Decl.).

Request

Based on the facts above, that the Official communication of 20 April 2004 required a response and was sent to Applicants' old attorney and to the wrong address, months after Applicants submitted a new Power of Attorney with a new address. Applicant's new attorneys did not receive the April 20, 2004 Official communication. Upon

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Serial No. 09/868,348
Petition to Withdraw Holding of Abandonment

receipt of the Notice of Abandonment, the undersigned attorneys obtained a copy of the Office communication of 20 April 2004 and have prepared a Substitute Response to Official Action which is enclosed herewith.

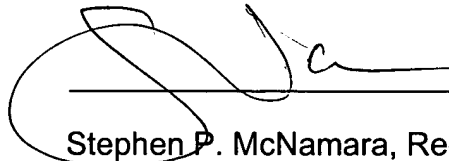
This Petition To Withdraw Holding of Abandonment is being filed within two (2) months of the mailing of the Notice of Abandonment in accordance with 37 CFR 1.181(f).

Applicants request that the Holding of Abandonment of 28 December 2004 be withdrawn and the Substitute Response to Office Action be entered in the file, and that it be returned to the Examiner for further prosecution. This request is appropriately granted because: (1) The previous 12 August 2003 Response to Office Action was fully responsive to the original Office Action on all substantive issues, and (2) the failure to respond to the Office Communication arose from the error of the Patent Office in mailing it to a deceased attorney.

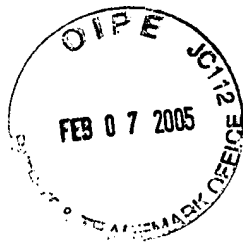
Respectfully submitted,

Feb. 2, 2005

Date

A handwritten signature in dark ink, appearing to read "Stephen P. McNamara", is written over a horizontal line. The signature is fluid and cursive.

Stephen P. McNamara, Registration No. 32,745
Michael W. Krenicky, Registration No. 45,411
Attorneys for Applicants
ST. ONGE STEWARD JOHNSTON & REENS LLC
986 Bedford Street
Stamford, CT 06905-5619
203 324-6155



PATENT
00833-P0021A SPM/MWK

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants	Barry V.L. Potter, <i>et al.</i>
Serial No. 09/868,348	Filing Date: 6/15/2001
Title of Application:	Cyclic Adenoside Diphosphate Ribose Analogues for Modulating T Cell Activity
Confirmation No. 7539	Art Unit: 1623
Examiner	Patrick T. Lewis

Mail Stop Petition
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

**Declaration of Michael W. Krenicky, Esq.
In Support of Petition to Withdraw Holding of Abandonment**

Dear Sir:

The undersigned, Michael W. Krenicky, declares that:

1) My name is Michael W. Krenicky and I am a patent attorney at St. Onge Steward Johnston & Reens LLC ("SSJR") located at 986 Bedford Street, Stamford, CT 06905.

2) I am an Attorney of Record in the above-referenced case.

3) An Office Action issued in the above application on February 12, 2003. Applicant's prior attorney, Mary Krinsky, passed away in late February 2003. The present attorneys filed a complete Response to the Office Action in August 2003.

4) On January 5, 2004, Applicants submitted a Filing of Revocation and New Power of Attorney revoking prior powers of attorney appointing such powers to Stephen P. McNamara, Registration No. 32,745 and Michael Krenicky, Reg. No. 45,411 of St. Onge Steward Johnston and Reens LLC ("SSJR"), 986 Bedford Street, Stamford, CT 06905-5619. Included with this filing was return postcard acknowledging receipt of the Revocation and New Power of attorney that was dated by O.I.P.E. January 8, 2004. A

true and correct copy of that Filing of Revocation and New Power of Attorney and return postcard are attached hereto as Exhibit A.

5) Attached hereto as Exhibit B is a true and correct copy of 5 January 2005 facsimile from USPTO Examiner Patrick Lewis to Steven McNamara which contained a copy of the 20 April 2004 Office communication addressed to Mary M. Krinsky, Ph.D., J.D.

6) Attached hereto as Exhibit C is a true and correct copy of the SSJR Docket Report from 20 April 2004 to 20 May 2004, except that irrelevant portions have been redacted.

7) I attest to the fact that I have searched the file jacket and did not find the 20 April 2004 Office communication, which indicates to me that it was not received by the attorneys of record.

8) I have also reviewed the docket records between 20 April 2004 and 20 May 2004 and the docket records fail to indicate that the 20 April 2004 Office communication was received by the attorneys of record during that time period.

9) Attached hereto as Exhibit D is a true and correct copy of 28 December 2004 Notice of Abandonment.

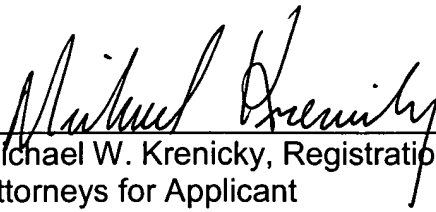
10) I believe the first time SSJR ever received the 20 April 2004 Official communication was by facsimile on 1 January 2005 as shown in Exhibit B attached hereto. This was after SSJR received Notice of Abandonment.

11) I declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under § 1001 of Title

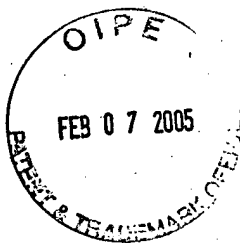
Page 3
Serial No. 09/868,348
Declaration of Michael W. Krenicky

18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Respectfully submitted,



Michael W. Krenicky, Registration No. 45,411
Attorneys for Applicant
ST. ONGE STEWARD JOHNSTON & REENS LLC
986 Bedford Street
Stamford, CT 06905-5619
203 324-6155



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00833-P0021A SPM/MWK

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Applicants	Barry V.L. Potter, <i>et al.</i>
Serial No. 09/868,348	Filing Date: June 15, 2001
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Confirmation No. 7539	Art Unit: 1623
Examiner	Josephine Young

Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

Filing of Revocation and New Power Of Attorney

Dear Sir:

Applicants submit a Revocation and Power of Attorney for this matter. Also enclosed is a copy of the Assignment filed with the U.S. Patent Office on December 22, 2003, evidencing ownership of this application.

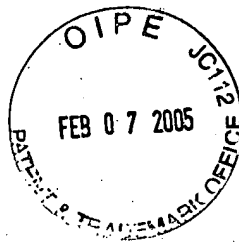
Respectfully submitted,

Stephen P. McNamara, Registration No. 32,745
Michael W. Krenicky, Registration No. 45,411
Attorneys for Applicants
ST. ONGE STEWARD JOHNSTON & REENS LLC
986 Bedford Street
Stamford, CT 06905-5619
203 324-6155

Certificate of Mailing: I hereby certify that this correspondence is today being deposited with the U.S. Postal Service as first class mail in an envelope addressed to: Commissioner for Patents; Post Office Box 1450; Alexandria, VA 22313-1450.

January 5, 2004

Patricia Sci



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00833-P0021A SPM/MWK

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants	Barry V.L. Potter, <i>et al.</i>
Serial No. 09/868,348	Filing Date: June 15, 2001
Title of Application:	Cyclic Adenoside Diphosphate Ribose Analogues for Modulating T Cell Activity
Confirmation No. 7539	Group Art Unit: 1623
Examiner	Josephone Young

Assistant Commissioner for Patents
Washington, DC 20231

Revocation and New Power Of Attorney

Dear Sir:

Applicants, University of Bath, a university of United Kingdom, having its principal place of business at Claveton Down; Bath BA2 7AY, Great Britain hereby revokes all previous powers of attorney and appoints the following attorneys to prosecute this patent application and transact all business in the United States Patent and Trademark Office connected therewith, receive all communications from the United States Patent and Trademark Office, to receive the Letters Patent, and be its agent for service of process in connection herewith:

Stephen P. McNamara, Registration No. 32,745
Michael W. Krenicky, Registration No. 45,411
Attorneys for Applicants
ST.ONGE STEWARD JOHNSTON & REENS LLC
986 Bedford Street
Stamford, CT 06905-5619
203 324-6155

To the best of my knowledge, University of Bath is the assignee of record of the patent application identified above.

University of Bath

10 September 2003
Date

By

KERENA GREEN

Name

KERENA GREEN

Title

Head of IP Services,
Solicitor

Case No. 00833-P0021A SPM/MMK/pas

Applicants: Barry V.L. Potter, et al.

SN: 09/868,348

Filed 2001/6/15

Art Unit 1623

For: **Cyclic Adenoside Diphosphate Ribose Analogues for Modulating T Cell Activity**

Receipt is hereby acknowledged of Correspondence, Revocation and New Power of Attorney and copy of Assignment Recordal.

Mailed: January 5, 2004

Commissioner
for Patents

Case No. 00833-P0021A SPM/MMK/pas

Applicants: Barry V.L. Potter, et al.

SN: 09/868,348

Filed 2001/6/15

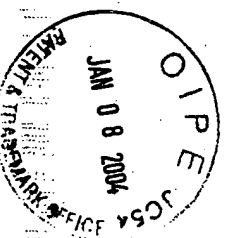
Art Unit 1623

For: **Cyclic Adenoside Diphosphate Ribose Analogues for Modulating T Cell Activity**

Receipt is hereby acknowledged of Correspondence, Revocation and New Power of Attorney and copy of Assignment Recordal.

Mailed: January 5, 2004

Commissioner
for Patents





UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Fax Cover Sheet

Date: 05 Jan 2005

To: Steven McNamara	From: Patrick T. Lewis
Application/Control Number: 09/868,343	Art Unit: 1623
Fax No.: 203-327-1096	Phone No.: 571-272-0655
Voice No.: 203-324-6155	Return Fax No.: (703) 872-9306
Re: Office Action dated 4/20/2004	CC:
<input type="checkbox"/> Urgent <input type="checkbox"/> For Review <input type="checkbox"/> For Comment <input type="checkbox"/> For Reply <input checked="" type="checkbox"/> Per Your Request	

Comments:

Number of pages 4 including this page

STATEMENT OF CONFIDENTIALITY

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UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/868,348	06/15/2001	Barry V.L. Potter	5743.US	7539
26850	7590	04/20/2004	EXAMINER	
MARY M. KRINSKY, Ph. D., J.D. PATENT ATTORNEY 79 TRUMBULL STREET NEW HAVEN, CT 06511			LEWIS, PATRICK T	
			ART UNIT	PAPER NUMBER
			1623	

DATE MAILED: 04/20/2004

12

Please find below/ and/or attached an Office communication concerning this application or proceeding.



UNITED STATES DEPARTMENT OF COMMERCE
U.S. Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450

APPLICATION NO/ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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09/868, 348

6-15-2001

Potter et al.

5743.05

EXAMINER

P. Lewis

ART UNIT

PAPER

1623

12

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

The amendment to the claims filed on August 14, 2003 does not comply with the requirements of 37 CFR 1.121(c) because applicant has not indicated the status of all claims. Amendments to the claims filed on or after July 30, 2003 must comply with 37 CFR 1.121(c) which states:

(c) *Claims.* Amendments to a claim must be made by rewriting the entire claim with all changes (e.g., additions and deletions) as indicated in this subsection, except when the claim is being canceled. Each amendment document that includes a change to an existing claim, cancellation of an existing claim or addition of a new claim, must include a complete listing of all claims ever presented, including the text of all pending and withdrawn claims, in the application. The claim listing, including the text of the claims, in the amendment document will serve to replace all prior versions of the claims, in the application. In the claim listing, the status of every claim must be indicated after its claim number by using one of the following identifiers in a parenthetical expression: (Original), (Currently amended), (Canceled), (Withdrawn), (Previously presented), (New), and (Not entered).

(1) *Claim listing.* All of the claims presented in a claim listing shall be presented in ascending numerical order. Consecutive claims having the same status of "canceled" or "not entered" may be aggregated into one statement (e.g., Claims 1-5 (canceled)). The claim listing shall commence on a separate sheet of the amendment document and the sheet(s) that contain the text of any part of the claims shall not contain any other part of the amendment.

(2) *When claim text with markings is required.* All claims being currently amended in an amendment paper shall be presented in the claim listing, indicate a status of "currently amended," and be submitted with markings to indicate the changes that have been made relative to the immediate prior version of the claims. The text of any added subject matter must be shown by underlining the added text. The text of any deleted matter must be shown by strike-through except that double brackets placed before and after the deleted characters may be used to show deletion of five or fewer consecutive characters. The text of any deleted subject matter must be shown by being placed within double brackets if strike-through cannot be easily perceived. Only claims having the status of "currently amended," or "withdrawn" if also being amended, shall include markings. If a withdrawn claim is currently amended, its status in the claim listing may be identified as "withdrawn—currently amended."

(3) *When claim text in clean version is required.* The text of all pending claims not being currently amended shall be presented in the claim listing in clean version, i.e., without any markings in the presentation of text. The presentation of a clean version of any claim having the status of "original," "withdrawn" or "previously presented" will constitute an assertion that it has not been changed relative to the immediate prior version, except to omit markings that may have been present in the immediate prior version of the claims of the status of "withdrawn" or "previously presented." Any claim added by amendment must be indicated with the status of "new" and presented in clean version, i.e., without any underlining.

(4) *When claim text shall not be presented; canceling a claim.*

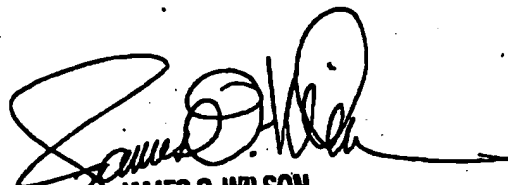
(i) No claim text shall be presented for any claim in the claim listing with the status of "canceled" or "not

entered."

(ii) Cancellation of a claim shall be effected by an instruction cancel a particular claim number. Identifying the status of a claim in the claim listing as "canceled" will constitute an instruction to cancel the claim.

(5) *Reinstatement of previously canceled claim.* A claim which was previously canceled may be reinstated only by adding the claim as a "new" claim with a new claim number.

Since the reply filed on August 14, 2003 appears to be *bona fide*, applicant is given a TIME PERIOD of ONE (1) MONTH or THIRTY (30) DAYS from the mailing date of this notice, whichever is longer, within which to submit an amendment in compliance with 37 C.F.R. 1.121 in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.134(a).



JAMES O. WILSON
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

All patent received and docketed activity from April 20, 2004 to May 20, 2004.xls

Received Date	Client	Matr	Serial No.	Docket Description	Docket Date
04/20/2004	00530				
04/20/2004	01925				
04/20/2004	01925				
04/20/2004	01925				
04/20/2004	02237				
04/20/2004	02580				
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All patent received and docketed activity from April 20, 2004 to May 20, 2004.xls

Received Date	Client	Matbr	Serial No.	Docket Description	Docket Date
04/23/2004	03382				
04/23/2004	03382				
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04/26/2004	03768				
04/26/2004	03821				
04/26/2004	03822				

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All patent received and docketed activity from April 20, 2004 to May 20, 2004.xls

Received Date	Client	Serial No.	Docket Description	Docket Date
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04/26/2004	03822			
04/26/2004	03822			
04/26/2004	03936			
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04/26/2004	04010			
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04/28/2004	03141			
04/28/2004	03317			

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Received Date	Client Matter	Serial No.	Docket Description	Docket Date
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REDACTED

REDACTED

Received Date	Client
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Re-assign Data	Claim	Pattern	Serial No.	Docket Description	Docket Data
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Received Date	04/30/2004	00961
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Docket Date

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Serial No. Docket Description Docket Date

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/868,348	06/15/2001	Barry V.L. Potter	5743.US	7539

7590 12/28/2004

STEPHEN P. McNAMARA MICHAEL W. KRENICKY
ST. ONGE STEWARD JOHNSTON & REENS LLP
986 BEDFORD STREET
STAMFORD, CT 06905-5619

EXAMINER

LEWIS, PATRICK T

ART UNIT PAPER NUMBER

1623

DATE MAILED: 12/28/2004

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St. Onge Steward Johnston & Reens

DEC 30 2004

FILE 833- PAIA
DKT was pending

SPM
MLW

Please find below and/or attached an Office communication concerning this application or proceeding.

2-28-05- Petitioner's Review
(27)

Notice of Abandonment

Application No.

09/868,348

Examiner

Patrick T. Lewis

Applicant(s)

POTTER ET AL.

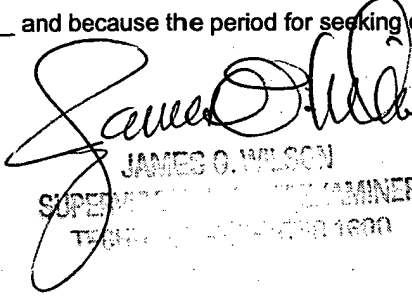
Art Unit

1623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1. ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on 20 April 2004.
 - (a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
 - (b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.
(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
 - (c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
 - (d) ☒ No reply has been received.
2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
 - (a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
 - (b) ☐ The submitted fee of \$_____ is insufficient. A balance of \$_____ is due.
The issue fee required by 37 CFR 1.18 is \$_____. The publication fee, if required by 37 CFR 1.18(d), is \$_____.
 - (c) ☐ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
 - (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
 - (b) ☐ No corrected drawings have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☐ The reason(s) below:


JAMES O. WILSON
SUPERINTENDING EXAMINER
TECHNICAL STAFF 1600

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.